

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 06-20663

D-10, DEXTER HUSSEY,

HONORABLE AVERN COHN

Defendant .

ORDER DENYING MOTION FOR RECONSIDERATION

This is a criminal case. Because defendant is representing himself, and as a consequence, the case has presented to the Court severe management problems. The Court entered an order on October 30, 2009, requiring the government, among other things, to include in its exhibit book photographs of the several non-documentary exhibits it intends to offer into evidence at trial, and to correlate the witness list with the exhibit list. The government has filed a motion for reconsideration of the order relating to the above. The motion is DENIED.

The government expresses concern that the Court's order will limit its ability to present evidence and testimony at trial.¹ The government states that "[a]lthough the order does not describe its instructions as requiring a bill of particulars, an attempt by the government to documents and witnesses that were not listed pursuant to that order would

¹"Our objection to the requirement for an amended, annotated exhibit list arises out of our concern that compliance with the Court's order will unduly limit the government's options to deal with the unavailability of particular witnesses and will limit the government's proofs to the particulars furnished." United States' Motion for Reconsideration at ¶3.

surely be met with protests and efforts to strike by the defense.” United States’ Brief in Support of Motion for Reconsideration at 15. The Court did not order a Bill of Particulars. Due to the bare bones nature of the indictment, the Court is concerned that the defendant cannot discern the factual basis upon which he was indicted. The order is intended to ensure that the defendant will be fully prepared when trial begins to understand the government’s proofs and that the trial will not be delayed for the defendant’s need to understand these proofs.

Obviously, if a witness correlating to an exhibit is not available at trial, or the government decides to utilize a different witness than the correlated witness to authenticate an exhibit, the government may do so. The correlation is not intended to restrict the government’s ability to present its case as it deems appropriate. Rather, the correlation is a precautionary requirement which is intended to enable the proofs to move forward with a minimum of down time. As to the photographs, this is a “best efforts” requirement, again to enable the proofs to move forward with a minimum of down time. The government under-appreciates the difficulties which can be encountered in a case in which the defendant is representing himself, particularly in the circumstances of this case.

SO ORDERED.

Dated: November 9, 2009

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of this notice was served upon Dexter Hussey, 4107 19th Street, Ecorse, MI 48229, William Ford, Standby Counsel and Dawn Ison, AUSA on this date October 30, 2009 by ordinary mail and/or electronic mail.

s/Julie Owens
Case Manager, (313) 234-5160